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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,599	01/24/2006	Hideki Kurata	TIP001	2414

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EXAMINER	
KARLS, SHAY LYNN	

ART UNIT	PAPER NUMBER
3723	

MAIL DATE	DELIVERY MODE
03/14/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/565,599	KURATA, HIDEKI	
	Examiner	Art Unit	
	Shay L. Karls	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 January 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Mason (USPN 3918166).

Mason teaches a strip body (16) having two edges disposed along a longitudinal direction of the strip body and a handle (any portion near element 24 can be considered the handle; anything that can be grasped by the hand can be considered a handle, therefore the housing of the reel could be considered the handle as well as the upper and lower edges of the strip) at a front end of the strip body. There is a reel body (18) having a rotary member (18a) to which a rear end (26) of the strip body is attached and reeling in or playing out the strip body to or from the rotary member by rotating this rotary member. The strip body further comprises flexible members (14; figure 2) disposed on both edges of the strip body, and the flexible member are configured to make close contact with an abutting surface along the long direction of the strip body.

With regards to claim 3, the flexible members are made from rubber (col. 2, lines 55-57).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mason ('166) in view of King (USPN 3662969).

Mason teaches a strip body (16) having two edges disposed along a longitudinal direction of the strip body. There is a reel body having a frame (18) and a rotary member (18a) rotatably attached to the frame. The reel is spring loaded. A rear end (26) of the strip body is attached to the rotary member so that the strip body can be withdrawn from the reel body and wound onto the rotary member. The strip body further comprises flexible members (14; figure 2) disposed on both edges of the strip body, and the flexible member are configured to make close contact with an abutting surface along the long direction of the strip body.

With regards to claim 5, there is further a handle located at a front end of the strip body (any portion near element 24 can be considered the handle; anything that can be grasped by the hand can be considered a handle, therefore the upper and lower edges of the strip are considered the handle) and a handle attached to the reel body (the housing of the reel can be considered the handle attached to the reel body since it is capable of being grasped).

Mason teaches all the essential elements of the claimed invention however fails to teach that the reel is wound and unwound by means of a handle. King teaches a tape measure with a reel that is wound by means of a handle (18). It is well known in the art to have reels that are either spring-loaded or manually retractable and that these various types of reels are equivalent structures.. The claim would have been obvious because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the spring-loaded reel of Mason for the manual reel of King for retracting the tape measure for storage since they are considered to be equivalent structures known in the art.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mason ('166) in view of King (USPN 3662969) as applied to claim 5 above and further in view of Koizumi et al. (USPN 5406715).

Mason and King teach all the essential elements of the claimed invention however fail to teach that the strip body is made from a glass fiber. Koizumi teaches a tape measure that is made from glass fiber (col. 3, lines 60-64). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the strip body of Mason from glass fiber as taught by Koizumi, since it has been held within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. *In re Leshin, 125 USPQ 416.* Further it would have been obvious to use glass fiber as the material for the strip body of Mason since glass fiber is a material known to

have sufficient flexibility which is clearly an important property when dealing with tape measures.

Response to Arguments

Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

The applicant's amendment to the claims necessitated further search and a new rejection was made in view of Mason (USPN 3918166). While Mason teaches a tape measure rather than a drain cleaner it is clear that since Mason teaches all the structural limitations of the claim it would therefore be capable of performing the intended use.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Karls whose telephone number is 571-272-1268. The examiner can normally be reached on 7:00-4:30 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shay L Karls/
Primary Examiner, Art Unit 3723